

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 7. Mediation Questionnaire**

*Instructions for this form: <https://www.ca9.uscourts.gov/forms/form07instructions.pdf>*

**9th Cir. Case Number(s)** 23-15285

**Case Name** Carr v. Google LLC

Neal Kumar Katyal

**Counsel submitting this form**

All Defendants

**Represented party/parties**

*Briefly describe the dispute that gave rise to this lawsuit.*

Plaintiffs are consumers who made purchases through the Google Play store. They allege that, in violation of federal and state competition laws, Google charged supracompetitive prices to app developers. Plaintiffs argue that app developers passed these allegedly higher prices on to consumers.

*Briefly describe the result below and the main issues on appeal.*

The District Court certified a class of approximately 21 million consumers based on a damages model that assumed that all consumers would have paid lower prices absent the allegedly supracompetitive prices charged to app developers, contrary to actual evidence that virtually no consumers paid lower prices when Google reduced fees to app developers. Plaintiffs' expert purported to estimate the amount of the overpayment based solely on an app's share of transactions in marketing categories in the Play store, without even attempting to account for other relevant and intervening variables. The main issues for appeal are:

1. Whether Rule 23 requires a district court to conduct a rigorous analysis of the extent to which a proposed class contained uninjured class members.
2. Whether a district court may certify a class based on an injury model that does not account for critical variables that yield individualized differences among class members.
3. Whether a district court must analyze whether individualized issues with respect to damages calculations will predominate and therefore defeat class certification.

*Describe any proceedings remaining below or any related proceedings in other tribunals.*

The District Court is currently proceeding with the merits of this case. Trial is currently set to begin on November 6, 2023, in this case and three others proceeding in the same multidistrict litigation proceeding.

**Signature** **Date**   
(use "s/[typed name]" to sign electronically-filed documents)